

U.S. DISTRICT COURT
NORFOLK DISTRICT OF TEXAS
FILED
JUN 16 2008
CLERK, U.S. DISTRICT COURT
By RR
Deputy

#22758

C.A. NO. _____

3-08 CV 1010-M

PLAINTIFF'S ORIGINAL COMPLAINT

I. INTRODUCTION

When the owner of the space that Mr. Box identified for the Consulate would not lease the property, the Consulate and Mr. Box entered into a joint venture to purchase all three

buildings, with the Consulate agreeing to purchase back one of those buildings from Mr. Box. The Consulate, however, violated each of its agreements, refusing to pay Mr. Box for his services, and secretly negotiating with another entity to purchase the three buildings at issue in violation of the joint venture with Mr. Box.

When the Mexican Government does business in the United States, it is not above the law. Mr. Box brings this action to enforce his rights.

II. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff **Blake Box d/b/a Blake Box Company**, is an individual and citizen of the State of Texas. He may be served through his counsel of record.

2. Defendant **Dallas Mexican Consulate General** is an agency or instrumentality of a foreign state, and may be served pursuant to the Foreign Sovereign Immunities Act of 1976 (as amended in 1988), Title 28, Part IV, Chapter 97, Sections 1602-1611 (the "Foreign Sovereign Immunities Act").

3. The Court has jurisdiction and venue over this lawsuit pursuant to the Foreign Sovereign Immunities Act.

III. THE FACTS

4. The Consulate recently announced the purchase of a new consulate building to serve Dallas and the surrounding areas. The Consulate's building search for the city of Dallas had been ongoing for approximately five years when a City of Dallas official approached Mr. Box in the latter part of 2006 and asked him to assist the Consulate with its relocation efforts in hopes of keeping the Consulate within Dallas city limits.

5. Mr. Box contacted the Consulate and began to provide them with services in late 2006 and throughout 2007.

6. The representatives of the Consulate, including Ambassador Enrique Hubbard Arrea and Mr. Hugo Juarez-Carillo, retained Mr. Box to provide services to the Consulate in connection with its search for a new building for the Consulate in Dallas.

7. Initially, the Consulate retained Mr. Box to aid it in searching for a lease arrangement. Sometime thereafter, however, the Consulate and Mr. Box mutually changed the terms of their agreement to services related to a purchase rather than lease of a building to house the Consulate.

8. Mr. Box worked numerous hours on the Consulate's behalf for over a year.

9. Among other services provided by Mr. Box, he identified prospective sites, conducted space planning, enlisted the help of contractors, met with city of Dallas and consulate officials at various lease and building sites, and oversaw negotiations involving potential leases and/or purchases.

10. Mr. Box and the Consulate agreed that he would be compensated for his services.

11. Mr. Box expended money on the Consulate's behalf to third-party vendors in connection with the services that he provided the Consulate.

12. Mr. Box identified and evaluated a building that is part of a complex located at 1210-1230 River Bend Drive in Dallas (the "River Bend Plaza Complex") as a good fit for the needs of the Consulate. On behalf of the Consulate, Mr. Box initiated discussions with the owner to determine the viability of a lease arrangement involving the building located at 1210 River Bend Drive (the "Consulate Building"). The owner of the River Bend Plaza Complex informed Mr. Box that he was not interested in either a lease or sale of only the Consulate Building. The owner indicated instead that he was only open to a transaction involving the sale of the entire River Bend Plaza Complex.

13. Thereafter, the Consulate and Mr. Box entered into a joint venture whereby Mr. Box's newly formed entity would purchase the complex and the Consulate would then purchase the Consulate Building from the entity for approximately \$4,000,000. Thereafter, Mr. Box concentrated his efforts on this joint venture arrangement to purchase the River Bend Plaza Complex based on the Consulate's express desire and agreement to buy the Consulate Building. Mr. Box, and the other investors in the joint venture, would retain the other two buildings comprising the River Bend Plaza Complex after the sale to the Consulate of the Consulate Building.

14. After reaching an agreement in principal with the owner of the River Bend Complex on behalf of the joint venture, the Consulate represented to Mr. Box that it was no longer interested in pursuing the joint venture purchase of the River Bend Plaza Complex.

15. The Consulate representatives retained Mr. Box to investigate other options.

16. Meanwhile, the Consulate secretly contacted and engaged in a joint venture with a third-party individual to initiate new negotiations with the owner of the River Bend Plaza Complex. This conduct violated the Parties' agreement. The Consulate representatives provided this individual with Mr. Box's work product regarding the River Bend Plaza Complex in further violation of the Parties' agreements.

17. Upon information and belief, this third-party worked with the Consulate to purchase the River Bend Plaza Complex. The third-party did not notify the owner of the River Bend Plaza Complex that he was working with the Consulate. Instead, he portrayed himself as an independent investor interested in purchasing the entire River Bend Plaza Complex. After successfully completing the purchase of the River Bend Complex, the third-party individual consummated the sale of the Consulate Building to the Consulate.

18. Mr. Box learned of the sale of the Consulate Building sometime in December 2007 when the Consulate's official relocation was announced publicly.

19. Mr. Box has not been paid for his services. Upon demand, the Consulate refused to pay him.

20. Likewise, upon demand, the Consulate has refused to abide by the terms of the joint venture. Instead, the Consulate provided Mr. Box's work product to the third-party investor in violation of their agreements.

IV. CONDITIONS PRECEDENT

21. All conditions precedent to the filing of this lawsuit have been performed or have occurred.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION **BREACH OF CONTRACT**

22. Plaintiff re-alleges and incorporates all allegations set forth above and below.

23. Defendant's actions, including but not limited to those actions described above, have breached the agreements between the parties for the provision of services and joint venture agreement.

24. Plaintiff has fulfilled in all material respects all of their contractual obligations.

25. As a result of Defendant's breach, Plaintiff has suffered actual and consequential damages.

SECOND CAUSE OF ACTION **FRAUD/FRAUDULENT INDUCEMENT**

26. Plaintiff re-alleges and incorporates all allegations set forth above and below.

27. Defendant made material representations to Plaintiff. The representations were false. When Defendant made the representations, Defendant knew the representations were false

or made the representations recklessly, as positive assertions, and without knowledge of their truth. Defendant intended to induce Plaintiff to enter into binding agreements based on the false representations. Plaintiff relied on Defendant's false representations. Plaintiff also entered into agreements based on Defendant's false representations. The false representations caused him injury.

28. Defendant concealed from or failed to disclose certain facts to Plaintiff. Defendant had a duty to Plaintiff that required the Defendant to disclose the facts to him. The facts were material. Defendant knew (1) Plaintiff was ignorant of the facts, and (2) Plaintiff did not have an equal opportunity to discover the facts. Defendant was deliberately silent when it had a duty to speak. By failing to disclose the facts, Defendant intended to induce Plaintiff to take some action or refrain from acting. Plaintiff relied on Defendant's nondisclosure. Plaintiff was injured as a result of acting without the knowledge of the undisclosed facts.

THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY

29. Plaintiff re-alleges and incorporates all allegations set forth above and below.
30. Defendant owes Plaintiff fiduciary duties as its agent and part of the joint-venture.
31. Defendant's course of conduct violated the fiduciary duties owed to the Plaintiff.
32. As a result of these breaches, the Plaintiff has been damaged and will continue to be damaged by Defendant's unlawful and ongoing conduct.

33. Plaintiff also seeks exemplary damages based upon the Defendant's conduct as alleged above and below.

FOURTH CAUSE OF ACTION
UNJUST ENRICHMENT

34. Plaintiff re-alleges and incorporates all allegations set forth above and below.

35. Payment or credit received in satisfaction of debt or retention of any of the funds by Defendant would result in unjust enrichment. In equity, such funds should be paid to Plaintiff.

FIFTH CAUSE OF ACTION
QUANTUM MERUIT

36. Plaintiff re-alleges and incorporates all allegations set forth above and below.

37. Plaintiff provided and rendered a variety of valuable services to Defendant. As a direct result of Plaintiff's rendition of services, benefits were conferred on Defendant. Defendant used, accepted, and enjoyed the services provided by Plaintiff, and had notice that Plaintiff expected to be paid for these services.

38. As a direct and proximate result of Defendant's non-payment, the Plaintiff has been damaged and is entitled to recover the reasonable value of services he provided to Defendant. Plaintiff reasonably expected payment for his services, and Defendant knew the Plaintiff expected payment.

SIXTH CAUSE OF ACTION
PROMISSORY ESTOPPEL

39. Plaintiff re-alleges and incorporates all allegations set forth above and below.

40. Defendant made promises to the Plaintiff. Plaintiff reasonably and substantially relied upon those promises to his detriment. Plaintiff's reasonable reliance was foreseeable by Defendant. Injustice can only be avoided by enforcing the Defendant's promises.

SEVENTH CAUSE OF ACTION
CONSTRUCTIVE TRUST

41. Plaintiff re-alleges and incorporates all allegations set forth above and below.

42. As a result of their conduct, Defendant has obtained a benefit and has been unjustly enriched. The Plaintiff requests that the court impose a constructive trust on such property and/or assets and order Defendant to transfer and pay over such funds to the Plaintiff, including his fees and costs incurred in bringing this action.

EIGHTH CAUSE OF ACTION
ATTORNEYS' FEES

43. The Plaintiff re-alleges and incorporates all allegations set forth above and below.

44. The Plaintiff retained the undersigned attorneys to represent him in this action and agreed to pay such attorneys reasonable and necessary attorneys' fees. The Plaintiff seeks recovery of his reasonable and necessary attorneys' fees, costs and expenses through trial and all appeals under applicable Texas law, including but not limited to Section 38 of the TEX. CIV. PRAC. & REMS. CODE.

45. The Plaintiff has presented his claim to the Defendant, and Defendant has refused to tender performance in response.

NINTH CAUSE OF ACTION
EXEMPLARY DAMAGES

46. The Plaintiff re-alleges and incorporates all allegations set forth above and below.

47. The Plaintiff seeks exemplary damages from Defendant based on its fraudulent conduct; willful and malicious conduct in breaching its fiduciary duty to the Plaintiff and, willful, intentional and malicious conduct; including fraud. As a result, such damages are not subject to any statutory limitations.

VI. JURY DEMAND

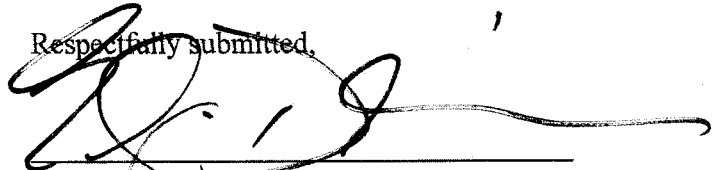
48. Plaintiff demands a trial by jury on all issues.

VII. PRAYER

49. The Plaintiff requests the following relief:
- a. Actual and compensatory damages;
 - b. Consequential damages, including but not limited to lost profits;
 - c. A constructive trust;
 - d. The reasonable and necessary attorneys' fees and expenses incurred through the trial of this cause and through any appeal of this action, including but not limited to expert witness fees and expenses;
 - e. Interest at the legal rate allowed by law prior to judgment, and after judgment interest at the legal rate allowed by law until paid;
 - f. Costs of suit;
 - g. Profit disgorgement;
 - h. Fee forfeiture;
 - i. Punitive damages; and
 - j. Such other and further relief, both special and general, at law or in equity, to which Plaintiff may be justly entitled.

June 16, 2008
DATED: May ____, 2008

Respectfully submitted,



Edward Jason Dennis
State Bar No. 24045776
LYNN TILLOTSON PINKER & COX, LLP
750 N. St. Paul Street, Suite 1400
Dallas, Texas 75201
Telephone: 214-981-3800
Facsimile: 214-981-3839

ATTORNEYS FOR PLAINTIFF
BLAKE BOX d/b/a BLAKE BOX COMPANY

OF COUNSEL:



William A. Kendall, Jr.
State Bar No. 24004736
WILLIAM A. KENDALL, P.C.
5005 Greenville Avenue, Suite 200
Dallas, Texas 75206
Telephone: 214-361-6124
Facsimile: 214-361-6126

ORIGINAL

CIVIL COVER SHEET

3-08 CV 1010-M

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Blake Box d/b/a Blake Box Company

(b) County of Residence of First Listed Plaintiff Dallas County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

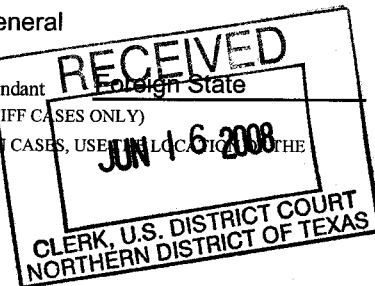
Lynn Tillotson Pinker & Cox, LLP 750 N St. Paul St., Suite 1400,
Dallas, Texas 75201 Tel: 214-981-3800

DEFENDANTS

Dallas Mexican Consulate General

County of Residence of First Listed Defendant Foreign State
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE ONLY IN CONNECTION WITH THE
LAND INVOLVED.

Attorneys (If Known)



II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1602

Brief description of cause:

Breach of Contract, Breach of Fiduciary Duty and Quantum Meruit

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/16/08

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE